

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,

No. C 10-03561 WHA

Plaintiff,

v.

GOOGLE INC.,

**NOTICE RE TRIAL STRATEGY**

Defendant.

Counsel should bear in mind that, in declining to bar categories of evidence at the outset, the Court is keeping open the possibility that as the trial develops and it becomes evident how evidence and argument is used or misused, the Court may restrict lines of evidence, themes, and arguments and may instruct the jury that certain arguments should or should not be considered. As in all trials, counsel must feel their way and should not later insist that they relied on rulings early on refusing to bar evidence at the threshold (or limiting the use of evidence). The same is true for the jury instruction on fair use. The trial itself may persuade the judge that modifications are needed. Proceed on notice of that possibility.

Dated: May 5, 2016.

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE